

IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

MARY LEE SHARRER,

Plaintiff,

v.

Case No. 7:18CV356

UNITED STATES OF AMERICA,
Serve: Thomas T. Cullen, United States Attorney)
for the Western District of Virginia
310 1st Street, S.W.
Roanoke, Virginia 24011

Via Certified Mail
Jeff Sessions, United States
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

UNITED STATES POSTAL SERVICE,
Serve: Thomas T. Cullen, United States Attorney)
for the Western District of Virginia
310 1st Street, S.W.
Roanoke, Virginia 24011

Via Certified Mail
Jeff Sessions, United States
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

WALTER SOVA,
Serve: Walter H. Sova
1385 Bethel Church Rd
Forest, VA 24551-3414

Defendants.

COMPLAINT

Mary Lee Sharrer (“Sharrer”), by counsel, moves this Court for judgment against United States of America (“the United States”), United States Postal Service (“USPS”), and Walter Sova (“Sova”) (collectively, “defendants”), and as grounds therefore states as follows:

(1) Plaintiff Mary Lee Sharrer brings this negligent retention complaint against the United States of America and the United States Postal Service pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b), and this assault and battery claim against the United States and USPS and Walter Sova, under the common law of the Commonwealth of Virginia.

(2) Plaintiff has exhausted her claims by filing an administrative claim with the United States Postal Service on October 20, 2017 for \$1.5 million dollars plus recoverable attorneys’ fees and costs. More than six months have passed and no determination has been made and therefore it is deemed a final denial of the claim. 28 U.S.C. § 2675.

(3) Plaintiff has timely filed her complaint as the administrative claim has not yet been denied. 28 U.S.C. § 2401(b).

(4) This Court has jurisdiction over the negligent retention claim against the United States and the USPS for money damages pursuant to 28 U.S.C. § 1346(b)(1). This Court has supplemental jurisdiction over the state common law tort claim pursuant to 28 U.S.C. § 1367.

(5) The acts or omission giving rise to the claim occurred in the Western District of Virginia. Venue is therefore proper pursuant to 28 U.S.C. § 1402(b).

(6) Plaintiff is a female and resident of the City of Roanoke, Virginia.

(7) Defendant United States of America is sued for plaintiff’s injuries caused by the negligent or wrongful acts or omissions of its employees. Those employees were acting within

the scope of their office or employment under circumstances where the United States, if a private person, would be liable to plaintiff in accordance with the law of the Commonwealth of Virginia.

(8) Defendant United States Postal Service is sued for plaintiff's injuries caused by the negligent or wrongful acts or omissions of its employees which occurred in City of Roanoke, Virginia. Those employees were acting within the scope of their office or employment under circumstances where the USPS, if a private person, would be liable to plaintiff in accordance with the law of the Commonwealth of Virginia.

(9) Defendant Walter Sova at all times relevant hereto was an employee of the United States of America at the United States Postal Service. Sova at all times material hereto acted within the actual or apparent scope of his authority as employee of the United States of America and/or the United State Postal Service or in his individual capacity, or both. On information and belief, Walter Sova was a resident of Lynchburg (Lynchburg City) and/or Forest (Bedford County), Virginia at the times relevant hereto.

(10) Plaintiff has worked for KGS, Inc. for about 20 years.

(11) KGS, Inc. is a contract mail delivery service for the United States Postal Service.¹

(12) As part of her duties, plaintiff picks up mail at the United States Postal Service main branch at 419 Rutherford Avenue, NE, Roanoke, Virginia 24022 and delivers it to Rocky Mount, Martinsville, and other locations in the Commonwealth of Virginia.

(13) Starting in September 2016, plaintiff was sexually harassed and groped and otherwise assaulted and battered by an employee of the United States Postal Service, Walter Sova, at the main post office located at 419 Rutherford Avenue, NE, Roanoke, Virginia 24022.

¹ As referred to in paragraphs 11-23, the terms "United States Postal Service" "the United States" "USPS" and "United States Postal Service" are used interchangeably, *i.e.*, the individuals listed are alleged to have been employees of the United States of America or the United States Postal Service, or both.

(14) Sova made crude and offensive sexual remarks to plaintiff, asked her to have sex with him, grabbed plaintiff's breasts and buttocks, and has otherwise sexually harassed, assaulted and battered plaintiff.

(15) The first time plaintiff talked to Sova he was waiting for her outside the bathrooms on his tram. When plaintiff came out of the bathroom, he rode beside her on his tram while she was walking toward the doors to leave and said she "looked like his second wife," or some such. Plaintiff asked him how many times had he been married, and he responded, "once."

(16) Starting soon thereafter, Sova used his position at the post office to gain proximity to plaintiff to assault and batter her. Sova would load plaintiff's truck, and when plaintiff would bend down to grab straps or something else she needed to tie down the cages that Sova had loaded onto her truck, he would push himself against her, rub on her buttocks, or hit her buttocks.

(17) Plaintiff wore a required lanyard that had to be scanned by a United States Postal Service's employee before departing the site. Sova would touch plaintiff's breasts when grabbing plaintiff's badge on her lanyard to scan it.

(18) Plaintiff consistently told Sova to keep his hands off her and pushed him away.

(19) Plaintiff started trying to move to the side when bending so that Sova could not position himself behind her. Then, while bending over, Sova grabbed plaintiff's head and said "while you are down there" a reference to oral sex.

(20) Sova also told plaintiff on numerous occasions that she "made him hard." Sova also followed plaintiff to the bathroom and showed her pictures of his penis and other inappropriate pictures on his phone.

(21) Then, on or about September 5, 2017, Sova hit plaintiff on the buttocks with such force that she cried out in pain (plaintiff had fractured her tailbone and/or pelvis years ago). When

plaintiff pushed Sova off of her and told him to keep his hands off her' he started laughing. Sova then grabbed her breast. Plaintiff again told Sova to stop touching her. An employee of the United States heard her screams, and plaintiff again reported what happened. The United States Postal Inspection Service finally got involved. Thereafter, plaintiff went to the magistrate's office and took out a warrant for Sova's arrest.

(22) Since September 2016 plaintiff has consistently reported the harassment and assaults and batteries to the employees who work on the dock and to the United States Postal Service's manager Bob Harstell, without relief. Plaintiff asked that Sova be removed from her truck so that he would not have access to her, but the United States did not do so.

(23) Harstell also told plaintiff that Sova was moved to Roanoke because he had sexually harassed other women in Lynchburg. And, other USPS employees have told plaintiff that Sova has done similar things to other women.

COUNT ONE: CLAIM FOR ASSAULT AND BATTERY
(AGAINST UNITED STATES AND USPS PURSUANT TO THE LAWS OF THE
COMMONWEALTH; AGAINST WALTER SOVA)

(24) Plaintiff incorporates by reference herein the preceding allegations in this Complaint.

(25) During each occasion enumerated above, plaintiff was placed in apprehension of imminent harmful or offensive contact with Sova's person, which created a reasonable apprehension of a battery.

(26) During each occasion enumerated above, plaintiff was subject to an unwanted touching, which was not consented to, excused, or justified.

(27) The acts of defendant Walter Sova constitute assault and battery under the common law of the Commonwealth of Virginia, for which Walter Sova is liable.

(28) The acts of defendants United States of America and United States Postal Services, through their agent and employee, constitute assault and battery under the common law of the Commonwealth of Virginia, for which defendants United States of America and United States Postal Services are liable under the theory of *respondeat superior* or otherwise under Virginia law.

(29) As a direct and proximate result of defendants' actions, plaintiff has suffered and will continue to suffer inconvenience, fear, humiliation, mental anguish, emotional pain, and physical pain.

(30) At all times material hereto, defendants acted in a willful and wanton manner or with reckless disregard for the protected rights of plaintiff so as to support an award of punitive damages.

COUNT TWO: CLAIM FOR NEGLIGENT RETENTION
(AGAINST UNITED STATES AND USPS ONLY PURSUANT TO FTCA)

(31) Plaintiff incorporates by reference herein the preceding paragraphs of this Complaint.

(32) When Sova assaulted and battered plaintiff, the United States and USPS knew or should have known through the use of ordinary care of Sova's reasonably discoverable propensities to sexually assault and batter women and history of doing so, and negligently placed plaintiff in a position where Sova would have access to potential victims including plaintiff or where the threatened harm would come to pass.

(33) The above-referenced information, which was reasonably available to the United States and USPS, alerted or should have alerted a reasonable employer that Sova posed a threat to plaintiff and other female employees.

(34) As a direct and proximate result of defendant's negligence, plaintiff has suffered and will continue to suffer pecuniary loss, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other non-pecuniary loss.

(35) Further, the United States and USPS acted with actual malice toward plaintiff or with reckless disregard of the protected rights of the plaintiff so as to support an award of punitive damages.

WHEREFORE, plaintiff Mary Lee Sharrer demands judgment against defendants United States of America, United States Postal Service, and Walter Sova, and each of them, jointly and severally, for injunctive and equitable relief, compensatory and punitive damages, together with pre-judgment interest and for costs and attorney's fees to the extent recoverable by law, and for such other and further relief as may be just and equitable.

Plaintiff demands trial by jury.

Respectfully submitted,

MARY LEE SHARRER

By: /s/ Terry N. Grimes
Of Counsel

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